

TAM:JJT:mel:2001V01054

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL NORWOOD, :
Plaintiff : No. 1:CV-01-1005
: (Caldwell, J.)
v. : (Smyser, M.J.)
: :
DONALD ROMINE, Warden, : ELECTRONICALLY FILED
Defendant : :

DEFENDANT'S MOTION TO CONTINUE PRETRIAL PROCEEDINGS

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure, defendant, Donald Romine, respectfully requests a continuance of the pretrial proceedings scheduled in the captioned matter. As grounds for this motion, defendant Romine states as follows:

1. The above-captioned Bivens case was filed against the former Warden of USP Lewisburg on June 6, 2001.
2. Generally, Norwood claims defendant Romine's failure to provide him a diet consistent with his religious beliefs violates his rights under the First Amendment and the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, et seq..
3. On February 10, 2003, defendant Romine's motion for summary judgment was denied and a pretrial conference was scheduled for April 21, 2003, at 3:00 p.m. Three days later, the pretrial conference was rescheduled for April 23, 2003. The filing of pretrial memoranda is due on or before April 11, 2003.

4. On December 27, 2002, Assistant United States Attorney Matthew Haggerty resigned from the United States Attorney's Office. At the time of his resignation, Assistant U.S. Attorney Haggerty had medical malpractice cases scheduled for trial in February and April 2003.

5. The more complex of the two cases, Mellon Bank, N.A., Administrator of the Estate of Brenda Reed Testa, Deceased v. United States of America, Barnes-Kasson County Hospital, et al. ("Testa"), 3:01-CV-1503 (Conaboy, J.), was reassigned to the undersigned Assistant U.S. Attorney due to his experience in handling such matters.

6. The Testa case involves complex medical and legal issues. Specifically, the plaintiff alleges that the United States and other non-federal defendants failed to properly diagnose and treat a patient's sub-arachnoid hemorrhage. Plaintiff alleges that as a result of the alleged negligence, the patient was left to live as a quadriplegic for one and one-half years before dying at the age of twenty-six.

7. The Testa jury trial is scheduled to commence on April 7, 2003, in Scranton, Pennsylvania. It involves five parties, approximately forty fact witnesses, and twelve experts, and is estimated to take four weeks to complete.

8. In light of the complexity of the Testa trial, the need to meet with fact and expert witnesses, prepare pretrial

submissions, and the distinct possibility that the Testa trial may continue into May 2003, defendant Romine respectfully requests that the Norwood pretrial conference and filing of pretrial memoranda be continued until June 2003.

9. Norwood will not be prejudiced by a continuance of the pretrial conference as he has been receiving the religious alternative diet since March 23, 2002.

10. Because the grounds for this motion are fully set forth herein, the defendant, in accordance with Local Rule 7.5(a) will not be filing a supporting brief.

WHEREFORE, defendant Romine respectfully requests that this Court continue the pretrial conference and the filing of pretrial memoranda until June 2003.

Respectfully submitted,

THOMAS A. MARINO
United States Attorney

s/ Joseph J. Terz
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Dated: March 14, 2003

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MICHAEL NORWOOD, :
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on March 14, 2003, she served a copy of the attached

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by placing said copies in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:

Michael Norwood
Reg. No. 06970-014
U.S. Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

s/ Michele E. Lincalis
MICHELE E. LINCALIS
Paralegal Specialist